

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
MEETING MINUTES**

February 10, 2016

1. CALL TO ORDER

Vice Chair Douglas Wiele welcomed everyone and called the meeting of the Executive Committee of the California Commission on Disability Access (CCDA or Commission) to order at 1:33 p.m. at the Law Office of Guy A. Leemhuis, 3685 Main Street, Suite 240, Riverside, 92501.

The off-site meeting locations for teleconference were the Department of Rehabilitation, 721 Capitol Mall, Room 244, 2nd Floor, Sacramento, 95814; the City of Los Angeles Department on Disability, 201 North Figueroa Street, Suite 100, Los Angeles, 90012; and Westfield Corp., 2049 Century Park East, 41st Floor, Los Angeles, 90067.

ROLL CALL

Staff Member Jackson called the roll and confirmed the presence of a quorum.

Commissioners Present:

Guy Leemhuis, Chair
Vice Chair Wiele, Vice Chair
(Teleconference)
Steve Dolim (Teleconference)
Michael Paravagna (Teleconference)
Laurie Cohen Yoo (Teleconference)
Betty Wilson (Teleconference)

Staff Present:

Angela Jemmott, Executive Director
Addison Embry, Program Analyst
Brandon Estes, Program Analyst
Fajola Jackson, Office Administrator

Also Present:

Connie DeMant, Legislative Director, Department of Rehabilitation

2. APPROVAL OF MEETING MINUTES (December 16, 2015) – ACTION

Commissioner Wilson stated her name was left off the attendance list.

MOTION: Commissioner Yoo moved to approve the December 16, 2015, California Commission on Disability Access Executive Committee Meeting Minutes as amended. Commissioner Dolim seconded. Motion carried unanimously with two abstentions.

3. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

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There were no questions or comments from the public.

4. COMMITTEE UPDATES – UPDATE AND DISCUSSION

a. Research

Commissioner Yoo, Chair of the Research Committee, presented her report on Committee activities:

- Discussed the data collection for last year and this year thus far
- Discussed the CCDA Case Resolution Reporting Form to improve efficiency of recording and generating statistics, which is now being used relatively consistently
- Discussed concerns about Assembly Bill (AB) 1521 and ways in which the Legislative Committee may refine the language to be more efficient and user-friendly for data collection and reporting
- Discussed funds being collected based upon the frequent litigator status that have not yet been submitted to the CCDA. Staff will continue to investigate.

b. Education and Outreach

Commissioner Wilson, Chair of the Education and Outreach (E&O) Committee, stated Commissioner Paravagna developed a list of terms, which was included in the 2015 Annual Report to the Legislature, to help clarify what is meant by terms such as “reasonable accommodation,” “compliance,” and other legal terms to help readers understand the spirit and intent of the disability laws. She presented her report on Committee activities:

- Reviewed the distribution process for the CCDA Accessibility Construction Inspection Checklist for Building Inspectors/Officials
- Will follow up on the results of a survey on the tool’s effectiveness in June or July
- Discussed the need for financial and/or in kind funding support for the creation and statewide distribution of the future consumer guide that will be under development
- Partnering with local jurisdictions to raise money for educational seminars
- Developing ideas for marketing
- Searching for celebrities to support Commission efforts and do public service announcements

Commissioner Wilson suggested that the NBC presentation of “The More You Know” would be helpful for Commissioners

c. Legislative

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Commissioner Paravagna, Chair of the Legislative Committee, stated the Committee will be reaching out to legislative offices to help cosponsor a town hall meeting where members of the disability and business communities can gather in a facilitated discussion to seek common ground and solutions that may lead to legislative proposals to assist in improving access. The Committee has also assisted the treasurer's office in developing regulations to put together a loan program for small businesses and is beginning to watch the new legislation that will occur for the next cycle.

d. Checklist

Commissioner Dolim, Chair of the Checklist Committee, stated a 15-member Committee is being assembled from diverse communities. He stated the proposed Committee Member names and a proposed five-step process for the Committee to follow will be presented to the full Commission for approval. He estimated that the Checklist Committee process will take six months to a year to produce several products that are unique to each area of use. The first Checklist Committee meeting will be April 6th.

Action Items:

- No action items.

5. BYLAWS REVIEW – DISCUSSION

Executive Director Jemmott read the pertinent sections in the CCDA Bylaws and asked Commissioners for input.

a. (3.0) Membership

Commissioner Paravagna stated the need to clarify the type of meeting the language refers to in Section 3.4.

Vice Chair Wiele asked if the original intent was for the full Commission meetings or all involvements.

Executive Director Jemmott stated the appointing bodies ask for a roll call during appointment season. The Commission reports the roll for all meetings that Commissioners are expected to attend. The reasons for absences are not distinguished.

Commissioner Paravagna suggested a reporting system that reflects excused absences because, from a disability civil rights standpoint, there may be a disability that has prevented them from attending meetings.

Commissioner Wilson suggested using HR criteria for excused absences modified by CCDA circumstances. It is important for members of a body such as this to participate and contribute. Chronic absenteeism should be addressed by the Executive Committee by questioning Commissioner commitment for providing service to the state of California and the community. There needs to be an acceptable way to manage unpaid volunteers.

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Vice Chair Wiele agreed with developing a standard with built-in allowances. He provided the example of missing the January meeting because the date was changed on short notice and he had already committed elsewhere.

Commissioner Paravagna asked if missed meetings should be a percentage rather than three consecutive meetings before the appointing authority is notified.

Commissioner Wilson stated Commissioners in Los Angeles come under review if they miss three meetings annually.

b. (4.0) Officers and Duties

Executive Director Jemmott asked Commissioners for input on who would preside at meetings if the chair and vice chair are both absent.

Commissioner Paravagna suggested adding language that states, if the chair and vice chair will be absent, the chair or vice chair appoint someone to be chair for the day.

Vice Chair Wiele agreed and suggested appointing the chair of one of the Committees to be third in line. He suggested the Legislative Committee chair.

Commissioner Yoo agreed with both suggestions but stated a procedure must be in place for someone to automatically step into that position for the times when there is an inability to appoint a chair for the day. She agreed that the chair or vice chair of the Legislative Committee could assume that role.

Vice Chair Wiele suggested that the executive director be given authority to appoint a chair for the day. It is important to have a flexible plan for succession.

Commissioner Paravagna agreed with the executive director appointing a chair because it gives flexibility to deal with unforeseen situations.

MOTION: Commissioner Paravagna moved to recommend that the full Commission consider an amendment to CCDA Bylaws Section 4 to provide authority for the executive director to appoint a chairperson as needed during the absence of the chair and vice chair. Commissioner Yoo seconded. Motion carried unanimously.

c. (5.0) Executive Committee

There were no required changes suggested.

d. (6.0) Standing, Ad Hoc, and Subcommittees

There were no required changes suggested.

e. (7.0) Meeting of the Commission

Chair Leemhuis questioned the validity of the requirement under the Bagley-Keene Open Meeting Act for attendees, including members of the public, to meet in designated public locations. It does not make sense with today's technology when

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everyone has access to the meetings via cell phone. He asked staff to research ways to meet Bagley-Keene requirements without meeting in a designated physical location.

Executive Director Jemmott stated a training on Bagley-Keene taught that when meeting locations are not designated, individuals could impersonate Commissioners. Correct identification is especially important for voting.

f. (8.0) Rules of Conduct Governing Full Commission and Committee Meetings

There were no required changes suggested.

g. (9.0) Amendments

There were no required changes suggested.

Action Items:

- For Section 3.4, staff is to clarify the language and obtain the HR definition for excused absences.
- For Section 7, staff is to research ways to meet with Bagley-Keene requirements without meeting in a designated physical location.

6. REPORT BY EXECUTIVE DIRECTOR – UPDATE AND DISCUSSION

a. Budget

Executive Director Jemmott presented and discussed the financial report, dated January 31, 2016. She stated Fi\$Cal has begun to catch up on the many past due invoices. Staff is working on new reporting tools that will add clarity to the financial reports going forward. Staff was informed that \$38,000 was not paid in 2014 due to lack of funding. There was \$12,000 left in 2014 that will be used to pay for this debt, leaving approximately \$25,000 that will come out of the 2016 budget to pay for the remaining amount due.

Vice Chair Wiele stated the CCDA is slightly over budget 7 months into the year and will come out an extra \$25,000 short. He questioned whether the CCDA would overrun its budget by the end of the fiscal year. Executive Director Jemmott stated it was forecasted that the Commission will be overrun by approximately \$10,000.

b. Annual Report Update

Executive Director Jemmott stated the 2015 Annual Report to the Legislation was completed on time and is posted on the CCDA website.

Action Items:

- No action items.

7. BILL TRACKING – DISCUSSION

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**a. AB 54 (Olsen R) Disability Access: Related Accessibility Claims:
Demand Letters**

Executive Director Jemmott stated AB 54 has been referred to the Judicial Committee. Staff has shared the challenges of meeting the requirements of AB 1521 and 54 with the Judicial Committee. The author's office has asked what the CCDA needs to meet the bill's requirement that disability access complaints and demand letters be submitted in a standardized format.

Chair Leemhuis asked if the standard form will be the form created by the Research Committee. If it is not, the Commission should oppose the bill.

Executive Director Jemmott stated they are interested in the CCDA's ideas for the form, but that does not prohibit them from adding things that have nothing to do with the CCDA.

Chair Leemhuis stated it also does not prohibit the CCDA staff from attending a Judicial Committee meeting and telling them on behalf of the CCDA why their additions do not work. This bill requires a different kind of legislative advocacy because it dictates the work of the Commission. Additional time should be spent on bills that mention the CCDA, its work, or the tools it uses to complete its work.

Commissioner Yoo clarified that the language of the bill specifies that it was supposed to be "in a standard format specified by the Commission." She asked if that language had been changed.

Chair Leemhuis stated the Fact Sheet provided by staff does not say that. He asked Executive Director Jemmott if she has spoken to the author.

Executive Director Jemmott stated staff shared with the Judicial Committee that the CCDA has been heavily impacted by missing language in the law. Attorneys have requested clarity or they will make their own decisions based on how they interpret the law. The CCDA needs to be clear and consistent in the design of the standardized form and the information requested in it for efficiency of the data collection and research mandate.

Chair Leemhuis stated bills must be carefully worded. The language in the Fact Sheet "and has allowed high frequency litigants to continue filing without being properly identified" is unclear. Nothing in the law makes high frequency litigators a negative. The fact that someone might file a number of lawsuits does not mean they violated any rules. The CCDA needs to be careful about allowing the Legislature to create a narrative that the data collection project data does not support.

Chair Leemhuis suggested that the Research and Legislative Committees meet together to discuss this issue to prevent jumping to conclusions. This bill is specific to the work the Commission does. Chair Leemhuis suggested inviting individuals who are talking about this bill to present at a Commission meeting.

Commissioner Yoo asked if it is a one- or two-year bill.

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Public Comment:

Connie DeMant, the Legislative Director for the Department of Rehabilitation (DOR), stated the DOR has been tasked by the governor's office to analyze this bill and make a recommendation. She stated AB 54 is a two-year bill and is in its last year. Ms. DeMant characterized the bill as a placeholder while they learn the CCDA's further wants and needs.

Chair Leemhuis stated the upcoming meeting with the author will help facilitate that. He suggested moving away from high frequency litigant language and focusing on removing barriers, achieving access in the state, and researching the impact that litigation is having on the goal of access. He stated the need to help the Legislature understand that polarizing communities in bill language does not encourage communities to come together to discuss solutions beyond litigation and find common goals.

Chair Leemhuis asked staff to learn who the constituency is who is speaking to Assembly Member Olsen and reach out to them to find out why they have the negative perspective that they have.

b. SB 269 (Roth D) Disability Access

Chair Leemhuis stated the need to discuss what is wrong with someone suing three businesses on the same thoroughfare if a member of the disability community lives in that community and goes to those businesses. He suggested having a conversation on how often someone can file a lawsuit to enforce their civil rights. He suggested finding legislators who are interested in having this conversation and would host a town hall meeting with stakeholders to begin the discussion.

Commissioner Paravagna stated the CCDA worked with the author on the last iteration of this bill and advised them that the CCDA does not impact the number of CASp members.

Chair Leemhuis stated this bill is opposed by one of the largest disability rights advocacy groups in the country. He asked how the author defines small business, because in one place it is 50 or fewer employees and in another it is 100 or fewer employees. He suggested learning the stories that are feeding this bill. He asked Executive Director Jemmott to facilitate a meeting with Commissioner Roth.

Executive Director Jemmott stated staff has contacted Senator Roth's office and is in the process of confirming a date for a meeting.

Commissioner Paravagna suggested asking Commissioner Roth about sponsoring the town hall meeting with individuals from the disability and business communities to find common ground. Chair Leemhuis agreed with the importance of discussion before creating more bills.

Vice Chair Wiele stated the writer of the Fact Sheet is naïve about the relationship between small businesses and the premises that they occupy. Most small businesses

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are in a leased facility, in multi-tenant buildings, and have no right to make changes of any kind to the common areas. To do so would be a breach of the lease.

Commissioner Paravagna stated property owners could not realistically correct an issue within fifteen days. The CCDA needs to assist the Legislature in having a facilitated conversation with the parties involved in the bills that they write, which includes the business and disability communities, so that common ground can be identified and more realistic legislation can be drafted.

Chair Leemhuis agreed that it would be helpful for legislative members of the Commission to participate in a panel at a town hall meeting.

Action Items:

- Staff is to learn who the constituency is who is speaking to Assembly Member Olsen and reach out to them to find out why they have the negative perspective that they have.

8. FUTURE AGENDA ITEMS

Chair Leemhuis suggested discussions on what has been done with the strategic plan, where Commissioner involvement could improve, and what is happening with the Commission vacancy. He hoped to meet with the three legislative members of the Commission before the next meeting.

Chair Leemhuis suggested that the Research Committee present the data collection form at the next Executive Committee meeting for approval before submitting it to the full Commission for approval.

9. ADJOURN

Chair Leemhuis adjourned the meeting at 3:28 p.m.